



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.
Executive Director

CARLOS M. BRACERAS, P.E.
Deputy Director

May 4, 2006

Steelform Industries
1532 Industrial Road
Salt Lake City, UT 84120

Attn: Sherrie Reynolds

Re: Contract #069157

To whom it may concern:

Enclosed for your information and permanent file is one fully signed copy of Contract 069157 in which your company agrees to provide the Utah Department of Transportation with Brine mixing tanks without hoppers.

Sincerely,

Shauna Sisneros
Accountant I
Comptrollers Office

Enclosure

cc: Kelvin Thacker, Procurement

Contract # 069157

5184

STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following agency of the State of Utah:
Department: Transportation Agency Code: 810 Division: Maintenance, referred to as (STATE), and the following CONTRACTOR:

Steelform Industries

Name

1532 Industrial Road

Address

Salt Lake City

UT

84120

City

State

Zip

LEGAL STATUS OF CONTRACTOR

- ☐ Sole Proprietor
☐ Non-Profit Corporation
☒ For-Profit Corporation
☐ Partnership
☐ Government Agency

Contact Person Sherrie Ryenolds Phone #(801) 870-8099 Email sherriereynolds@msn.com
Federal Tax ID# 861028899 Vendor #900073A Commodity Code #92974

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide:
Brine Mixing tanks without hoppers.
3. PROCUREMENT: This contract is entered into as a result of the procurement process on RX# 810 66000000070, FY2006, Bid# TO6028.
4. CONTRACT PERIOD: Effective date: 04/15/06 Termination date: 04/14/06 unless terminated early or extended in accordance with the terms and conditions of this contract.
5. CONTRACT COSTS REQUIREMENTS CONTRACT: CONTRACTOR will be paid \$6,000 per tank.
6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions
ATTACHMENT B: Specifications
ATTACHMENT C: Special Terms and Conditions
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.
7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
 - Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid #TO6028 dated 04/05/06.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE

Contractor's signature

Date

Agency's signature

Date

SHERRIE REYNOLDS - Reg. sales
Type or Print Name and Title mgr.

Director, Division of Purchasing

CONTRACT RECEIVED AND
PROCESSED BY
DIVISION OF FINANCE

Date

Director, Division of Finance

Paul Rottmann

Agency Contact Person

(801) 965-4078

Telephone Number

801-965-4818

Fax Number

prottmann@utah.gov

Email

(Revision 11/12/2003)



8184

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CONTRACTOR**STATE**

Contractor's signature

Date

Agency's signature

Date

Type or Print Name and Title

Director, Division of Purchasing

Date

**CONTRACT RECEIVED AND
PROCESSED BY**

Director, Division of Finance

MAY - 1 2006Paul Rottmann

Agency Contact Person

(801) 965-4078

Telephone Number

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(Revision 11/12/2003)

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable

for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract:
1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Additional Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: July 5, 2005)

ATTACHMENT B: SPECIFICATIONS FOR BRINE MIXING TANK

1.0 Purpose: The purpose of this specification is to initially purchase two (2) and create two (2) year requirements contract to fabricate and deliver water-tight, welded steel, 40-cubic-yard mixing tanks to the Utah Department of Transportation. The tanks will be for use in preparing salt or other brines used in roadway anti-icing activities.

Note: A sample tank may be seen at UDOT station #224 located at approximately 5600 West and 2100 South (South and West frontage road) West Valley City, Utah. It's the brown tank located near the salt storage shed.

2.0 Characteristics:

- 2.1 When in service, each tank will contain liquid brines with 1.30 specific gravity.
- 2.2 Tank top rails shall be capable of supporting a metal brine mixing device filled with 7-1/2 tons of salt.
- 2.3 The tanks are water-tight.
- 2.4 The tanks have no doors, interior ladders, self-loading hooks or latches.

3.0 Dimensions:

- 3.1 Each tank is between 85" minimum to 92" maximum wide inside dimension.
- 3.2 Each tank is at least 72" tall and will hold 40 cubic yards struck capacity.
- 3.3 The tank has a 2-inch deep minimum recessed floor at least 24" inches square.
- 3.4 Each tank is sized to be transportable on public highways without any special permits requirements.

4.0 Accessories:

Each tank is equipped with rollers or wheels, and have towing eyes near the bottom at each corner.

5.0 Fittings:

- 5.1 Each tank has two, 2-inch diameter pipe fittings at each end (a total of 4 on each tank). Each end has a female internal pipe thread (FIPT) and a male pipe thread (MPT).
- 5.2 The fittings are located near the bottom of the tank, leaving enough room to attach pipe and fittings both inside and out.

6.0 Coatings: The entire tank is be shop painted dark brown inside and out.

7.0 Delivery:

- 7.1 The tanks are delivered to Utah Department of Transportation maintenance stations during normal working hours (7:30 AM to 4:30 PM Monday through Thursday).
- 7.2 Delivery sites are located statewide.
- 7.3 Notify UDOT's representative, Lynn Bernhard (801-964-4597) prior to delivery.

ATTACHMENT C: SPECIAL TERMS AND CONDITIONS

QUANTITY OR AMOUNT ESTIMATES:

STATE does not guarantee to purchase any amount under this contract. Estimated amounts are not to be construed as a guarantee to purchase any amount.

PRICING:

The Contractor agrees that the prices bid on materials/services in this contract shall be **guaranteed for six (6) months.**

ANY CHANGE REQUEST ON PRICES MUST GUARANTEE THE PRICE FOR SIX MONTHS, AND MUST BE MADE AT LEAST THIRTY (30) DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE. ANY SUCH REQUEST MUST INCLUDE SUFFICIENT DOCUMENTATION SUPPORTING THE REQUEST. REQUESTS FOR CHANGE ON ANY PRICING IN THIS CONTRACT SHALL NOT BE EFFECTIVE UNTIL IT IS APPROVED BY THE STATE .

NON-ASSIGNMENT

The Contractor shall not sublet, assign or transfer any part of the contract without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation. The provision of monies due under this contract shall not be assignable without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation.

NON-COMPETE CLAUSE

The CONTRACTOR represents its officers and employees are free to contract with STATE and are not subject to restrictions by the terms of their present or past employment including, but not limited to an agreement not to compete for a period of time unless disclosure has been made. CONTRACTOR must disclose to the STATE any possible conflicts, in writing, before the contract is signed, and the STATE will evaluate whether to continue with contract execution. STATE may elect to terminate a contract immediately with a CONTRACTOR who is subsequently determined to be subject to such restrictions without liability to the STATE. If the STATE elects to terminate a contract for this reason, the STATE will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 30 day prior notice to the CONTRACTOR.

LIQUIDATED DAMAGES:

CONTRACTOR agrees to delivery of items as quoted in this bid. Failure to deliver as quoted, constitutes an event of default. The actual damages to the Department of Transportation for delay will be difficult or impassible to determine. Therefore, in lieu of actual damages, the vendor shall pay to the Department of Transportation, liquidated damages for each calendar day of delay, an amount of \$20.00 per unit, up to a maximum of 90 calendar days (including pilot unit). Should the vendor be unable to complete the delivery at the end of the 90-day period, the Utah Department of Transportation may, at its option, treat the contract as breached, terminate the contract, purchase substitute goods else-where, and charge the full increase, if any, in cost and handling for such purchase to the defaulting vendor, and seek such additional relief as provided by law. The vendor shall not be charged for liquidated damages when delay arises out of causes beyond the control and without the fault or negligence of the vendor

COMPLETE CONTRACT

This contract is intended by the parties as a final expression of their agreement, and supersedes all prior communications, representations and agreement, oral and written, between the parties with respect to the subject matter contained herein. The parties also intend this contract to be a complete and exclusive statement of the terms of their agreement. This contract may not be modified or terminated orally, and no claimed modification, recission or waiver shall be binding on the STATE unless in writing, signed by a duly authorized representative of the STATE.

FORCE MAJEURE

Neither party shall be liable for failure to perform any of its obligations under this Agreement during any period in which such party cannot perform due to matters beyond their control, including, but not limited to, strike, fire, flood, or other natural disaster, war, embargo, or riot provided that the party so delayed immediately notifies the other party of such delay. If <SELLER>'s performance is delayed for these reasons for a cumulative period of twenty (20) days or more, <BUYER> may terminate this Agreement and/or any Purchase Order(s) hereunder by giving <SELLER>

ATTACHMENT C: SPECIAL TERMS AND CONDITIONS

written notice, which termination shall become effective upon receipt of such notice. If <BUYER> terminates, its sole liability under this Agreement or any Purchase Orders issued hereunder will be to pay any balance due for conforming goods and/or services (1) delivered by <SELLER> before receipt of <BUYER>'s termination notice; and (2) ordered by <BUYER> for delivery and actually delivered within fifteen (15) days after receipt of <BUYER>'s termination notice.

EMPLOYEE AUTHORITY

Individuals performing services for the Contractor shall have authority to coordinate the work of this contract with the State Representative(s). The State does not accept any responsibility for coordination and/or communication between the Contractor and the Contractor=s employees.

QUALITY OF SERVICES

CONTRACTOR represents to STATE that it is experienced in and thoroughly familiar with all aspects of the services required hereunder and is properly qualified as applicable and is equipped, organized, and financially able to perform the services. No changes in the services to be provided by CONTRACTOR under this Contract shall be made without STATE's prior written approval.